

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Danny Lane Ivester, Jr. and Danny Lane Ivester, Sr.,)	C/A No.: 8:07-cv-3637-GRA-BHH
)	
Plaintiffs,)	
)	
v.)	ORDER
)	(Written Opinion)
)	
Spartanburg Municipal Court Judge John Leslie Smith, in his individual and official capacity; City of Spartanburg, South Carolina; Mark Scott, CEO, City Manager, in his individual and official capacity,)	
)	
)	
Defendants.)	
)	

This matter comes before the Court for a review of the magistrate's Report and Recommendation pursuant to 42 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(b)(2)(e), D.S.C., filed on February 29, 2008. The plaintiffs originally brought this suit in state court on October 10, 2007. The defendants removed it on November 6, 2007. Subsequently the defendants filed a motion to dismiss on November 13, 2007. The Court issued an order pursuant to *Roseborro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), on November 14, 2007, advising the plaintiffs of the consequences of a failure to respond to the defendants' motion. After an amended *Roseboro* Order was issued on December 11, 2007, the plaintiffs filed a timely motion in opposition on January 29, 2008. The magistrate recommends that this Court dismiss the plaintiffs' suit. For the reasons stated herein, this Court adopts the magistrate's Report and

Recommendation.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Plaintiffs filed objections on March 12, 2008.

In order for these objections to be considered by a United States District Judge, the objections must specifically identify the portions of the Report and Recommendation to which the party objects and the basis for the objections. Fed. R.

Civ. P. 72(b); see *United States v. Schronce*, 727 F.2d 91,94 n.4 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841, 845-47 nn.1-3 (4th Cir. 1985). "Courts have . . . held *de novo* review to be unnecessary in . . . situations when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendation." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Furthermore, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

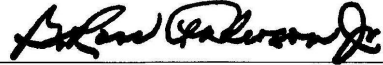
None of the plaintiffs' objections to the magistrate's Report and Recommendation are specific. Rather, plaintiffs reiterate the argument they made in their complaint challenging the jurisdiction of the municipal courts in South Carolina. The magistrate has already conducted an analysis of these arguments, and the plaintiffs fail to specifically argue where the magistrate erred in that analysis. In the absence of specific objections, this Court need not explain its reasons for adopting the recommendation.

After a thorough review of the Report and Recommendation, the pleadings, and the objections, this Court finds that the magistrate applied sound legal principles to the facts of this case. Therefore, this Court adopts the magistrate's Report and Recommendation in its entirety.

IT IS THEREFORE SO ORDERED THAT the defendants' motion to dismiss be GRANTED.

FURTHER IT IS ORDERED THAT all other outstanding motions be DENIED as moot.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

April 8, 2008
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiffs have the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**